

DEC 17 2003

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CATHY A. CATTERSON
U.S. COURT OF APPEALS

TERRY ANN BRYANT,

Petitioner - Appellant,

v.

DERREL G. ADAMS, Warden,

Defendant - Appellee.

No. 01-55835

D.C. No. CV-00-03245-JSL

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
J. Spencer Letts, District Judge, Presiding

Submitted December 4, 2003**
Pasadena, California

Before: KOZINSKI, NOONAN, Circuit Judges, and SCHWARZER,*** Senior
United States District Judge.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

*** The Honorable William W Schwarzer, Senior United States District Judge, for the Northern District of California, sitting by designation.

Terry Ann Bryant appeals the district court's denial of her 28 U.S.C. § 2254 petition challenging her sentence of 25-years-to-life for petty theft with a prior conviction. We have jurisdiction pursuant to 28 U.S.C. § 2253, and we affirm.

Bryant contends that her sentence of 25-years-to-life under the California three-strikes law, Cal. Penal Code § 667, constitutes cruel and unusual punishment in violation of the Eighth Amendment. This claim is foreclosed by the Supreme Court's decisions in Lockyer v. Andrade, 538 U.S. 63, 123 S. Ct. 1166, 1173-74 (2003) (holding that a state court's decision affirming petitioner's sentence of two consecutive terms of 25-years-to-life under the three-strikes law was not contrary to, or an unreasonable application of, clearly established Supreme Court law) and Ewing v. California, 538 U.S. 11, 123 S. Ct. 1179, 1190 (2003) (holding that petitioner's 25-years-to-life sentence under the three-strikes law did not violate the Eighth Amendment's prohibition against cruel and unusual punishment).

Bryant has made no showing that the California three-strikes law fails to give notice to individuals that the conduct they engage in is forbidden by statute. See Colautti v. Franklin, 439 U.S. 379, 390 (1979). The three-strikes law clearly provides that the penalty for committing a felony with two prior serious felony convictions is a sentence of at least 25-years-to-life.

Although Bryant's sentence is severe, we cannot say that it violates clearly established Federal law.

AFFIRMED.